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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,792	11/12/2003	Robert Gerald Kushner	50065.00008	7797

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STUART WHITTINGTON, ESQ.
7037 EAST MONTE CIRCLE
MESA, AZ 85209

EXAMINER

MORGAN JR, JACK HOSMER

ART UNIT	PAPER NUMBER
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3782

MAIL DATE	DELIVERY MODE
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05/21/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/712,792

Applicant(s)

KUSHNER, ROBERT GERALD

Examiner

Jack H. Morgan

Art Unit

3782

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☒ The Notice of Appeal was filed on 07 May 2007. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER


11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments regarding examiners present rejections are fully considered but not deemed persuasive.

In regards to the rejection of claim 1 by Suzuki (JP 10226279A) applicant argues that Suzuki does not disclose a tool operative to be inserted into a cavity, on the grounds that a card is not a tool. (Page 3 of response of 5/7/07). Suzuki discloses a number of cards, from Highway Cards to gas cards to business cards, all of which are tools for various purposes. For example, a business card does meet the limitations of the term tool as presented by applicant's claims, as a business card is a tool which facilitates business communications. In regards to the rejection of claims 1-2, 7-11, 14 and 17-22 by Ainley et al. (US 6,728,995) in view of Chang (US 5,180,133) and others applicant argues that the Office Action of 2/7/07 fails to provide motivation for the combination of Ainley et al. and Chang to "configure the recess of Ainley et al. in a manner to be able to removably insert Chang's calculator" however examiner does provide a reason, namely "in order to provide a convenient mounting surface for the calculator." In regards to this argument, examiner points applicant to the response to arguments in the Office Action of February 7, 2007. Further evidence of the properness of this combination is now provided by Examiner, namely the patents of Decoteau (US 6,502,727) which discloses an electronic device (Fig 1, 30, Col 1, lines 16-17) clipped (14) to a vehicle sun visor (Col 2, lines 62-64) and Rall et al. (US 2004/0108228 A1) which discloses a note organizer (Fig 1-5) which may be clipped to a sun visor (Fig 2) and also may be provided with a calculator (Fig 5, 38) depending on the specific needs of the vehicle in question [0014]. Examiner provides these as evidence that it was known to be desirable at the time of invention to locate a calculator on a visor.

In regards to the rejection of claims 1, 2, 7, 9, 11, 14 and 18 by Holland (US 6,681,452) in view of Jo (US 6,101,689) applicant argues that there is no objective reason to combine Holland and Jo as stated by examiner. Applicant argues that there is no reason to assume that the clamp of Holland would damage an item, and that there is already a hanging apparatus disclosed on Holland. Holland discloses holding documents and/or other objects (Col 1, lines 35-36) and Jo teaches the cushions in order to carry an item between the jaws, regardless of the thickness of the item. (Col 1, lines 55-62). Thus the cushions of Jo would allow Holland to securely grip items of varying sizes more effectively. In regards to the clip, while Holland discloses attaching the clamping apparatus to various objects via magnets, adhesives and/or fasteners of various types (Col 6, lines 29-34). Jo teaches a clip to attach a clamping apparatus to a user's clothing. Thus, as stated in the Office Action of February 7, 2007, one of ordinary skill in the art would look to Jo for a teaching of a clip to attach the object holder to a supporting surface. In regards to applicant's argument that Holland does not disclose a pivoting member at corresponding ends as recited by applicant, Examiner's use of the top and bottom ends of the arms does not give the claims undue breadth, as an "end" is not further defined by applicant's claims, and thus Examiner uses the broadest reasonable interpretation of the term. Moreover with an alternative interpretation, Holland could have two ends, one which extended from the grasping means (13a) toward the pivot point (specifically up to right before the pivot point) and a second end from the front of the pivot point to the rear holding means of the clamping body (13b).


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